



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY, SUITE 620
NASHVILLE, TENNESSEE 37243
615-741-1831**

**June 11, 2007
Room 640, Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met June 11, 2007, at 11:15 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 640. Chairman Marc Headden called the meeting to order, and the following business was transacted.

COMMISSION MEMBERS PRESENT

Dr. Richard Evans
Marc Headden
William R. Flowers, Jr.
James E. Wade, Jr.
John Bullington
Luther Bratton
Jason West

COMMISSION MEMBERS ABSENT

Sam Pipkin

STAFF MEMBERS PRESENT

Nikole Urban, Administrative Director
Bethany Heuer, Staff Attorney
Angela Smith, Administrative Assistant

ADOPT AGENDA

The commission voted to adopt the agenda. Dr. Evans made the motion to accept the agenda and it was seconded by Mr. Wade. Motion carried unopposed.

MINUTES

The May 2007 minutes were reviewed. Mr. Flowers made the motion to accept the minutes as written. It was seconded by Mr. Wade. Motion carried unopposed.

GENERAL BUSINESS

Education Committee Report

Dr. Evans made recommendation to approve the Education report as submitted by staff. The IRWA courses had been changed to CE only because they did not meet the requirements for qualifying education. Mr. Flowers motioned that the Commission grant approval to all requests on the Education Report as recommended by Dr. Evans. Mr. Wade seconded that motion. The motion carried unopposed. The following are the courses and individual approvals from the education report:

EDUCATION COMMITTEE REPORT JUNE 11, 2007

Course Provider	Course Number	Course Name	Instructors	Hours	Credit Type
IRWA	1085	Principles of Real Estate Negotiations	Lawrence D. Dupree	16	CE
	1086	Residential Relocation	Lawrence D. Dupree	16	CE
		Appraisal of Partial Acquisitions	William B. Milton	40	CE
		Mobile Home Relocation	Lawrence D. Dupree	8	CE
		Business Relocation	Lawrence D. Dupree	16	CE
University of Memphis	1092	15 Hour USPAP	Mike Orman	15	QE
McKissock		Residential Income Approach	Jerry Thornton	15	Both
		Residential Report Writing And Case Studies	Jerry Thornton	15	Both
The Columbia Institute		Practice of Condemnation Appraisal, No. 209	Various	16	CE

Individual Course Approval

Name	Course Provider	Course Name	Hours	Credit Type
Larry Metcalf	A-Pass- Weikel Institute	Site and Site Improvements	16	CE

EXPERIENCE INTERVIEWS

Andrew Easton made application to upgrade from a certified residential to a certified general appraiser. Mr. Headden and Mr. Flowers were the reviewers and recommended approval. Mr. Headden stated that the appraisal reports did not have the sales history reported and the trainee and Supervisor had been notified of this reporting requirement. Mr. Wade made the motion to accept the recommendation and Dr. Evans seconded the motion. The motion carried unopposed.

John R. Morton, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Justin Hipner, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Mark T. Briggs, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Michelle Garrett, made application for certified general appraiser as an out-of-state applicant from a non-reciprocating state. Mr. Headden and Mr. Bullington were the reviewers and stated that Ms. Garrett's appraisals need some work and they recommended not approving the application at this time. They recommended that she complete a Scope of Work course, a thirty (30) hour Income course with examination and submit one additional appraisal report on an income producing property using all approaches to value applicable. They did not require an additional experience interview at this time. Mr. Wade made the motion to accept this recommendation; Mr. Flowers seconded the motion. The motion carried unopposed.

Tammy Johnson, made application to upgrade from a registered trainee to a certified general appraiser. Mr. Headden and Mr. Bullington were the reviewers and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

Scott Taylor, made application to upgrade from certified residential appraiser to certified general appraiser. Mr. Headden and Mr. Bullington were the reviewers and stated that Mr. Taylor's appraisals were insufficient and not USPAP compliant and they recommended not approving the application at this time. They recommended that he submit three (3) additional reports: one (1) multi-family (10+ unit) property, one (1) multi-tenant retail, one (1) residential subdivision. They stated that these reports should include all approaches to value applicable and that these appraisals can be demonstration reports. Mr. Flowers made the motion to accept this recommendation; Mr. Wade seconded the motion. The motion carried unopposed.

Erica L. Douglass, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Bullington was the reviewer and recommended submission of three (3) additional appraisal reports because the reports submitted were insufficient in areas. An additional experience interview would be required. Mr. Flowers made the motion to accept this recommendation; Mr. Wade seconded the motion. The motion carried unopposed.

Tara Nicole Joyner, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Flowers made the motion for approval; Mr. Wade seconded the motion. The motion carried unopposed.

Michael Berg, made application to upgrade from a registered trainee to a certified general appraiser. Mr. Flowers and Mr. Wade were the reviewers and recommended approval. Mr. Bratton

made the motion to accept the recommendation and Dr. Evans seconded the motion. The motion carried unopposed.

Laura Covington, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Flowers was the reviewer and recommended approval. He stated that the applicant seemed well trained and qualified. Mr. Wade made the motion to accept the recommendation and Mr. West seconded the motion. The motion carried unopposed.

Richard Gipson, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Flowers was the reviewer and recommended approval. He stated that the applicant seemed well trained and qualified. Mr. Wade made the motion to accept the recommendation and Mr. West seconded the motion. The motion carried unopposed.

Orestes Pumariega, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Flowers was the reviewer and recommended approval. He stated that the applicant seemed well trained and qualified. Mr. Wade made the motion to accept the recommendation and Mr. West seconded the motion. The motion carried unopposed.

Sheri Forbes, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Wade was the reviewer and did not recommended approval for certified residential, but rather recommended that she be approved for licensed appraiser. Dr. Evans made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

Mickey Etheridge, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Wade was the reviewer and stated that he found problems with the reports. He recommended that the applicant submit two (2) additional appraisal reports and attend a second experience interview. He also stated he wanted staff to review the appraisals to determine if there is sufficient evidence of USPAP violations to file a complaint against the Supervisor. Mr. Bullington made the motion to accept the recommendation and Mr. West seconded the motion. The motion carried unopposed.

Sean Kennedy, made application during a previous meeting to upgrade from a registered trainee to a certified general appraiser, but was required to submit additional information on one of the appraisal reports submitted. Mr. Kennedy submitted the additional information required. Mr. Wade was the reviewer and recommended approval. Dr. Evans made the motion to accept the recommendation and Mr. Bratton seconded the motion. The motion carried unopposed.

Kevin McGuigan, made application during a previous meeting to upgrade from a licensed appraiser to a certified general appraiser, but was required to submit three additional (3) commercial appraisal reports. Mr. McGuigan submitted the additional appraisals required. Mr. Wade was the reviewer and recommended approval. Dr. Evans made the motion to accept the recommendation and Mr. Bratton seconded the motion. The motion carried unopposed.

Jimmy Vandergrift, made application to upgrade from a licensed appraiser to a certified residential appraiser. Mr. Wade was the reviewer and recommended approval. Dr. Evans made

the motion to accept the recommendation and Mr. Bratton seconded the motion. The motion carried unopposed.

James Edgar Barnes, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Bratton was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

LEGAL REPORT

The following consent orders were presented to the Commission for consideration of approval.

H. Jeff Collins – signed Consent Order agreeing that, in an appraisal completed in 2004, he violated USPAP Standard Rule 1-1(b) by reporting incorrect distances of comparables and inaccurately describing the neighborhood, effective age, and amenities of the subject. The Respondent also agreed that he had violated the Ethics Rule, Record Keeping section by not properly retaining his workfile regarding an appraisal. In an appraisal completed in 2005, he agreed that he had violated USPAP Standard Rule 1-1(b) by reporting incorrect data in the report regarding the garage, number of fireplaces and access to a lake. Respondent has agreed to a civil penalty of **\$1,500** and to take a fifteen (15) hour **USPAP course** within ninety (90) days and provide proof of completion of an **Advanced Report Writing course**.

Mickey Manis – signed Consent Order agreeing that he violated Uniform Standards of Professional Appraisal Practice Rule 1-1, 1-4 (b), 2-1, the Ethics Rule; Conduct, Management and Record Keeping sections in the following ways:

- Standards Rule 1-1 and 1-4 (b) -- by inadequately applying depreciation in the cost approach;
- Standards Rule 1-1 and 2-1 (a) – due to reporting errors found in the appraisal report; Respondent has agreed to a **civil penalty of \$300** and a course in **Single Family Residential Appraisal** within 90 days of executing the consent order.

Reginald Howard - signed Consent Order admitting he violated the Ethics Rule, Competency Rule, Scope of Work Rule, and Standard Rules 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, 2-2, and 2-3 (most notably) by communicating an appraisal in a misleading manner, failing to perform the appraisal competently, failing to identify and report the scope of work, failure to correctly employ recognized methods and techniques that are necessary to produce a credible appraisal, committing substantial errors of omission or commission that affected the assignment results, rendering appraisal services in a careless or negligent manner, and failure to apply the sales comparison approach to value vacant land, and failure to include a signed certification in the appraisal report. Respondent agreed to successfully complete a thirty (30) hour **Single Family Residential Appraisal course**, a **fifteen (15) hours USPAP course**; a **course in Advanced Report Writing** and to submit **two (2) appraisal reports** after completing the above-referenced courses in order to demonstrate USPAP proficiency to the Appraiser Commission.

J. Everett Aycock - signed Consent Order admitting he, most notably, violated the Competency Rule of USPAP in performing appraisals on a two-unit residence and 20 acres of vacant land. Respondent agreed to **Voluntarily Surrender** his State of Tennessee real estate appraiser license effective June 11, 2007.

Larry Cameron – signed Consent Order agreeing that he violated Uniform Standards of Professional Appraisal Practice Rule 1-6; 1-5 and 2-2 in the following ways:

- Standards Rule 1-6 -- by not reconciling the data used to determine the market value of the subject property and the credibility of the cost approach in the appraisal report;
- Standards Rule 1-5 – by failing to analyze the current agreement and the sales history;
- Standards Rule 2-2 – by not stating the intended use of the appraisal, and not adequately reconciling the data, elements of comparison and reasoning used to develop the opinions of value;

Respondent has agreed to a thirty (30) hour course in **Basic Appraisal Procedures** with successful completion of the exam and a fifteen (15) hour **Residential Cost Approach and Site Valuation** course with successful completion of the exam within 90 days of executing the consent order.

Vote: A motion was made to approve the consent orders by Mr. Bullington. Mr. Flowers seconded that motion. The motion carried unopposed.

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1. L07-APP-RBS-2007060891

The complainant, a fellow practitioner, alleged that respondent misreported that the subject was on public sewer system, when it has a septic system. Also, the complaint alleges the Respondent failed to report that access to the property was through an easement across a neighboring property. The Complainant alleges the respondent did not use comparables that were the most similar or most proximate to the subject property and that adjustments in the sales grid were made without explanation and do not appear to be consistent with market information. The complaint alleges the appraised value of the subject was too high for the above reasons.

Respondent stated that he checked the wrong box for public sewer on the appraisal form, but stated in the addendum the subject had a working septic system. The respondent stated that although the subject is only 1 acre and has minimal road frontage, the driveway was part of the subject parcel. The Respondent stated the subject is a log construction home in a suburban area. He stated that the comparables used were more similar to the subject than those used by the Complainant. He stated the comparables used by the Complainant were significantly larger and of a different style, quality and market demand. The Respondent stated the adjustments made in the sales grid were market supported and included support for the site adjustment in the response letter. The Respondent stated that the cost figures used were from the Marshall & Swift Cost Manual and that depreciation was based on an effective age that was determined to be 4 years.
Prior complaints: none.

Recommendation and reasoning: Recommendation from staff for dismissal of this complaint because explanations of adjustments were found in the appraisal report and the sewer box being marked incorrectly seems to be only a minor error.

Vote: A motion was made to approve the recommendation by Mr. Flowers. Mr. Wade seconded that motion. The motion carried unopposed.

**2. L07APP-RBS-2007054131 Mr. Bullington and Mr. Pipkin were the reviewers.
Re-Present**

This complaint alleged over-valuing of the subject property by using Comparables outside the subdivision and in a superior subdivision. This complaint was filed in response to a request from the Defendant's lawyer in a civil suit for an expert witness to testify that a Broker and an instructor for a Real Estate school were not qualified to testify in an appraisal review capacity against this defendant. Information provided in the affidavits of these two persons lead to the Real Estate Appraiser Commission filing a complaint to determine validity of the over-valuation claims.

The response submitted by the lawyer for the defendant stated that the comparables used were appropriate because the subject is a high-end custom built home in this subdivision and it was necessary to leave the subdivision to find comparables of similar quality. *No prior complaint history.*

Recommendation and reasoning: A settlement conference was held with this Respondent and Mr. Bullington and Mr. Pipkin. During this conference the Respondent offered explanation of his choice of comparables and decision to leave the immediate subdivision. These further explanations and explanation of the conditions of the last sale satisfied the reviewers that the Respondent was not trying to create a misleading appraisal report or over-value the subject property. Mr. Bullington recommended dismissal of this complaint for the above reasons.

Vote: A motion was made to approve the recommendation by Mr. Flowers. Mr. Bratton seconded that motion. The motion carried unopposed.

3. L07-APP-RBS-2007057401 Mr. Wade was the reviewer.

This complaint was filed by a consumer who alleges the respondent under-valued his residence in 2007. The Complainant further alleged that the Respondent (a registered trainee) used sales that were inferior in quality to the subject property. These comparables had vinyl siding and did not have out buildings, have inferior trim and doors and did not have the same level of landscaping and outdoor features, according to the Complainant.

The Respondent stated that the subject property is in a rural area and typical homes have a combination of brick and vinyl siding. The Respondent further stated that the items such as garage, fence, patio, storage building were considered in the analysis of the value of the property. The Respondent stated that he used two comparables that were considered of inferior quality and one of superior quality. The Respondent stated his value opinion was supported and he considers it credible. *No prior complaint history.*

Recommendation and reasoning: Mr. Wade found in the review of this complaint that it was based on the complainant's opinion that the property is under-valued. It appears that the appraiser has provided adequate support and explanations for his opinion of value. Mr. Wade made a recommendation of dismissal for this reason.

Vote: A motion was made to approve the recommendation by Mr. Flowers. Mr. Bullington seconded that motion. The motion carried unopposed.

4. L07-APP-RBS-2007059381 Mr. Headden was the reviewer.

The Complainant (a consumer) alleged Respondent performed a biased appraisal and undervalued the subject property. Complainant alleges two of the comparables could not be found on public records which was the source the appraiser cited and the third comparable used for this vacant land appraisal was 14 months old. The Complainant stated that there were other sales available and they had higher sales prices than those used by the appraiser. The Complainant states that for these reasons the property was undervalued and his mother sold the property for less than it was worth based on the value indicated in the Respondent's appraisal.

The Respondent stated he did not act as an advocate for anyone while performing the appraisal assignment. He stated he did not know the agreed upon sale price or the asking price for the property. He stated he did discuss the appraisal with the Complainant once he had been given permission to do so by his client. He stated he explained to the Complainant the value of the land had been considered in relation to the topography, limited road frontage, access, easements, clearing of the land for site preparation, and utilities available. He stated the parcel was almost land locked, except for one right of way that crosses three different parcels of land, and that the subject site has no road frontage and is mostly sloping with small timber and underbrush. Further he stated that to access this property one must pass through two livestock gates and cross an open field and that there is a high tension power-line that appears to cross the southwest portion of the parcel. The Respondent stated he tried to explain these factors to the Complainant, but the Complainant replied to him that there were higher sales and he did not believe the value opinion provided by the Respondent. The Respondent has provided the public records of the comparables used in the appraisal report which were available from courthouse and CRS, but was not found on the TN assessor's website. The Respondent stated he verified these sales by calling the assessor's office. He stated that some of the sales the Complainant wanted used were sales of multiple parcels. *Prior complaints: 200002670 (closed); 200103609 (Dismissed).*

Recommendation and reasoning: Recommendation, from Mr. Headden, for a Letter of Warning pertaining to the lack of reporting of the sale history of the subject property and analysis of the current sales agreement. The explanations of elements of comparison taken into consideration in the valuation process appeared to support reasoning for value conclusion and the inclusion of public records pertaining to the sales in the response seem to have adequately addressed the other concerns brought to the attention of the Commission by the Complainant.

Vote: A motion was made to approve the recommendation by Mr. Flowers. Mr. Wade seconded that motion. The motion carried unopposed.

5. L07-APP-RBS-2007058861 Mr. Headden was the reviewer.

The complaint alleges housing discrimination by red-lining. The Complainant stated that he had three loans at a bank and was nearing completion of his home. He states the original loan officer was no longer working for the lender when he decided to refinance. He stated an appraisal was completed for this refinance with a value opinion of \$117,000, but that a second appraisal done by Respondent 1 was valued at significantly less (\$82,500) than the construction cost and the first appraisal completed. Further the Complainant stated that Respondent 1 ignored the value of the

two lots. The Complainant went to another lender to refinance and had an appraisal performed which valued the home at \$120,000, but an appraisal review performed by Respondent 2 valued the home at \$95,000 causing the loan to fall through. The Complainant stated he went to a third lender and they had an appraisal performed which valued the home at \$166,000. The lender had a review performed by Respondent 3, which is not an appraiser but is a real estate agent, and she valued the home at \$95,000 which the Complainant alleges caused the refinance of his home to fall through.

Respondent 1 stated in his response letter that he denies under-valuing the home and performed an unbiased review of an appraisal. He states that another review appraiser and a real estate broker also had a similar opinion that the subject's value was less than originally appraised. He stated that he has never met or spoken to the Complainant and would have no reason to prevent him from obtaining mortgage financing. He states that his review contained the same land area as the original appraisal and he has no knowledge of the "materials costs" referred to by the Complainant, but that he did indicate a value less than the original appraised value in his review. He stated also that he used different comparables because he felt the original appraiser did not use comparables that best represented the subject property. He stated that the comparables used by the first appraiser were outside the neighborhood boundaries. Comparable one exhibited less deferred maintenance than the subject; comparable two was a poor comparable because it was sold as office space, not a residential property; and comparable three was a more modern style home in a more suburban setting. He also stated the original appraiser used a higher per square foot value than represented by the range of his comparables. Respondent 1 concluded by stating that the subject may have been rehabbed, but that it is located in a part of town which serves to limit its value due to surrounding property values. He stated the highest sale in the immediate vicinity of the subject was \$95,000 with a predominate range from \$30,000 to \$50,000 and that the subject is larger, in terms of size, than typical homes in the neighborhood. He stated the Complainant got a loan using an appraisal that indicated a value of \$166,000 only to default on the loan. The subject was foreclosed upon for a sum of \$55,500 in April of 2007. This Respondent included sales data from the immediate area as well as listing sheets, including the subject's listing. *Prior complaints: 941736 (Closed); 199900651 (Closed nfa); 200206092 (Dismissed)*

Respondent 2 indicated he found a large inconsistency with the age of the property. The appraisal indicated the subject was 3 years old, but public records indicated it was 74 years old in 2004. He stated that in the original appraiser's rebuttal he had gotten the age from the owner. The Respondent stated he confirmed the age with courthouse records and a building permit to remodel. He stated that the original appraisal made large age adjustments to properties that were actually similar in age to the subject. This Respondent also referenced the recent sale of the subject for \$55,500. *No prior complaint history.*

Respondent 3, a real estate broker, issued a broker's price opinion on the subject property. She stated the subject is located in an area of older smaller residences and near an apartment complex that is not well maintained and significantly depreciated. She stated houses in the immediate area sell between \$55,000 to the \$80,000's. She stated as part of her requirements for BPO she must use properties within two (2) miles of the subject and within 20% of the size. She stated there was no racism or anything else (unethical) involved. *No prior complaint history.*

Recommendation and reasoning: Mr. Headden recommended dismissal of this complaint due to supporting evidence from the Respondent's that their value opinions were supported with sufficient data and reasoning within their review value indications and broker price opinion.

Vote: A motion was made to approve the recommendation by Mr. Wade. Mr. Bullington seconded that motion. The motion carried unopposed.

6. L07-APP-RBS-2007060901

The Complainant (a fellow practitioner) alleged the respondent misreported the legal description, made inappropriate adjustments or failed to make necessary adjustments, and did not use appropriate comparables which lead to an over-valuation of the subject property.

In the staff review of the Respondent's appraisal, the basement adjustments do appear inconsistent and there were no adjustments made for the comparables double garages when the subject was reported to have no garage. No other significant errors were evident from the appraisal report.

The Respondent was sent a request for response on May 9, 2007 and received the request via certified mail on May 14, 2007. The request requires response within 10 days. A second request for response was sent on May 28, 2007. The second request requires an immediate response. As of this date, no has been received from the respondent. *Prior complaints: 941851 (Closed-Consent Order for USPAP and Principles courses); 946105 (Dismissed); 200004349(Dismised); 200206595(Closed with a Letter of Warning); 200313733(Closed with a Letter of Warning); 200419830(Closed-Consent Order for Sales Comparison and USPAP courses); 200504060(Closed-Consent Order USPAP course & Letter of Warning); 200706086 (Open).*

Recommendation and reasoning: Staff recommends combining this complaint with the complaint immediate to follow in the legal report (#7 same Respondent) and approval for a settlement conference with reviewer and Respondent and approval of an appropriate consent order to be determined by the reviewer during the settlement conference. Also, staff recommends approval of formal hearing, if needed.

Vote: A motion was made to approve the recommendation by Mr. Bullington. Mr. Flowers seconded that motion. The motion carried unopposed.

7. L07-APP-RBS-2007060861

The Complainant alleged the respondent added the basement square footage into the market grid as above grade space in order to use larger comparables and inflate the value estimate.

In the staff review of the Respondent's appraisal, the basement square footage does appear to be added to the above grade space from the Respondent's own room grid and in the cost approach. In addition to the larger size (GLA) of the comparables, two of them had full basements. The Respondent reported the subject to have a full basement in the sales grid as well (and included the basement square footage in the GLA), and adjusted comparable one by \$10,000 for not having a basement. This appraisal had an effective date of 2001 and the copy submitted by the Complainant does not have legible photos.

The Respondent was sent a request for response on May 9, 2007 and received the request via certified mail on May 14, 2007. The request requires response within 10 days. A second request for response was sent on May 28, 2007. The second request requires an immediate response. As of this date, no has been received from the respondent. *Prior complaints: 941851 (Closed-Consent Order for USPAP and Principles courses); 946105 (Dismissed); 200004349(Dismisssed); 200206595(Closed with a Letter of Warning); 200313733(Closed with a Letter of Warning); 200419830(Closed-Consent Order for Sales Comparison and USPAP courses); 200504060(Closed-Consent Order USPAP course & Letter of Warning); 200706090 (Open).*

Recommendation and reasoning: Staff recommends combining this complaint with the complaint immediately proceeding in the legal report (#6 same Respondent) and approval for a settlement conference with reviewer and Respondent and approval of an appropriate consent order to be determined by the reviewer during the settlement conference. Also, staff recommends approval of formal hearing, if needed.

Vote: See vote for #6 above -- L07-APP-RBS-2007060901

8. L07-APP-RBS-2007062271

The Complainant (a consumer) alleged the respondent did not inspect the subject property and possibly not the comparables either (old photos were used). The Complainant also stated that the Respondent did not recognize that one of the comparables had 250 square feet of garage space that was listed originally as living area. When the error was pointed out to the Respondent, he did not change the adjustment, according to the Complainant. In addition, the Complainant alleges the Respondent did not adequately adjust for time of sale in a rapidly appreciating market. Finally, the Complainant stated the reconciliation of the appraisal does not explain how the Respondent arrived at the final value opinion and he believes the value represents the lowest side of market for homes in this area.

The Respondent stated in his response letter that the Complainant is not the client in this appraisal assignment and the client is satisfied with the appraisal. The Respondent stated that he and his trainee inspected the subject property and did an exterior inspection of the comparables. The appraised value was less than the homeowner expected and the Complainant could not get the 100% LTV he was seeking. The loan officer called the Respondent asking him to reconsider the value opinion. Part of this request was that the Complainant stated one of the Comparables had inaccurate GLA reported due to misinformation on the public records. The Respondent stated that he did not feel the homeowner provided more credible information than was reported on public records. The Respondent agreed to reconsider the appraised value and added an additional comparable to the report, but this did not change the final value opinion in the report.

The Complainant was provided a copy of the Respondent's response letter. In response to this the Complainant stated again that the Respondent never visited his property and certainly never went inside his house and asked "if he inspected the comparables, why did he not take any pictures?" The Complainant stated a Mr. S***** was the person who visited his house and took pictures of his house. The Complainant also stated that the appraisal report does not reference this person in the certification or anywhere else in the report. The Complainant stated that there still is no explanation of how the comparables were weighted and no response was given regarding using old comparables in an appreciating market without a time adjustment.

Staff review of the complaint revealed that the Respondent has two trainee's and neither of them were the person the Respondent stated went with him on this appraisal assignment. Mr. S***** is neither an appraiser nor a registered trainee. In addition, the appraisal report was reviewed and no reference to significant appraisal assistance was found anywhere in the report. The certification pages have the standard Fannie Mae pages stating he personally prepared all conclusions. No addendums referencing any variance scope of work or inspection was found. No time of sale adjustments were made in the sales comparison section. The property values "stable" box was marked in the neighborhood section of the report.

Recommendation and reasoning: Staff recommendation is for approval of a settlement conference and a consent order to be determined by the assigned reviewer of this complaint.

Vote: A motion was made to approve the recommendation by Mr. Bullington. Mr. Wade seconded that motion. The motion carried unopposed.

9. L07-APP-RBS-2007062561 The reviewer was Mr. Wade.

The Complainant (a consumer) alleged the respondent appraised his property with a list of improvements in progress that he had supplied the appraiser. The appraiser then completed the appraisal "subject to repairs" with an indicated value of \$175,000. The lender subsequently told the Complainant that they don't do loans on "subject to" appraisals. The Complainant asked the Respondent to do an appraisal "as is", but the Complainant stated the Respondent refused to do so and therefore his loan was denied. The Complainant stated that since he paid to have the appraiser "find the true value of my property; I feel I was ripped off." When the Complainant threatened to file a complaint against the appraiser he states the Respondent agreed to do the appraisal, but that it would be lucky to come back at \$60,000." The Complainant stated if the property "subject to repairs" is worth \$175,000 and he put in \$35,000 in repairs, his property should be worth currently \$140,000.

The Respondent stated in his response letter that he was contracted to do an appraisal of a property by a lender subject to repairs that were to be completed. He stated that it was clear to the Complainant that the appraisal would be "subject to" from the beginning. The property was going to be significantly altered and improved upon with regarding to GLA additions, repairs, and updates. He completed the assignment and was contacted by the Complainant in the weeks that followed because the loan had been denied. He stated the Complainant was in financial stress and was adamant that he change the "subject to" box to "as is". The Respondent was contacted by another lender to appraise the same property, but the Respondent declined the assignment. The Respondent stated in his response letter that he never told the Complainant that his house was worth \$60,000 in "as is" condition. The Respondent included e-mails from the lender to the Complainant in his response packet as proof of the difficulty of working with the Complainant.

The appraisal report appears to be an appraisal of a fair quality stick built house or that of a fair/average quality manufactured house. The repairs listed in the appraisal report appear to be cosmetic and functional, but no increase to the quality or the living area was reported in the list of upgrades. The subject appears to be of inferior quality to the comparables used in the appraisal report and the upgrades do not appear to sufficiently increase the quality of the home such that

these would be considered comparable properties. There is an indication the appraiser may have over-valued the subject property.

Recommendation and reasoning: Recommendation, from Mr. Wade, for approval of a settlement conference and to request the Respondent provide a copy of the work file for this appraisal.

Vote: A motion was made to approve the recommendation by Mr. Bullington. Mr. West seconded that motion. The motion carried unopposed.

10. L07-APP-RBS-2007061501 The reviewer was Mr. Wade.

The Complainant (Fannie Mae) submitted three appraisal reviews of residential income properties that the Respondent appraised.

In the review of the first rental property, the reviewer found that the Respondent used comparable rental properties that were all owned by the borrower/lessor of the subject property (Subject A) and that the Respondent used the subject as one of the comparable rental properties to establish market rent and still reported market rent as higher than it was currently renting. Rental sales included in the appraisal report were also owned by the borrower/lessor. In addition, discrepancies were found between the data included in the report and the MLS information on these properties. The subject was a four (4) unit apartment containing two (2) bedrooms in each unit. The first comparable rental sale used was a single family dwelling, according to the Fannie Mae reviewer, with 4 bedrooms and 4 bathrooms. The Respondent described this property as a three (3) unit apartment with one (1) bedroom in each unit. The second comparable rental sale was reported to be unused commercial land according to tax records. The Respondent described it as a four (4) unit apartment with one (1) and two (2) bedroom units. The third rental sale was not recorded in MLS information. Public records have it recorded as the sale of two buildings with four (4) units in each building and the location is 10 miles away in a superior market. The Respondent has this property as one (1) four (4) unit apartment located 13 miles away, but does make an adjustment for superior location. The fourth comparable rental sale (also, Subject B) was not recorded as a sale through county records and was not recorded in MLS information. A withdrawn MLS listing at that time indicated it was listed for \$299,000 which encompassed eight (8) properties. The Respondent indicated this as a sale for \$300,000 of one (1) four (4) unit property. The fifth and final rental sale used was a two (2) unit apartment with four (4) bedrooms in the first unit and two (2) bedrooms in the second unit. All of the sales used were 2-4 years prior to the effective date of the appraisal on a rental property in a metropolitan area of Tennessee.

The second rental property (Subject B) appraised was used as a sale in the prior appraisal. Both appraisals have the same effective date. Again, the Respondent used all rental properties owned by the borrower/lessor to establish market rent and as sales in the sales comparison approach. The reviewer for Fannie Mae found that the listings used in the appraisal were not active listings as of the effective date of the appraisal the Respondent provided, but had sold significantly prior to that date. Also, the rental information reported in the appraisal appears to be inconsistent with the rent disclosed on the MLS sheets from that time. According to the reviewer for Fannie Mae, comparable two was a six (6) unit apartment, not four (4) as reported, and rented for \$475 per unit, not \$775 as reported. The reviewer stated the market rents reported appeared significantly higher than the range for that market at that time. The same sales were used in the appraisal of Subject

B, except that comparable four from the previous appraisal is the subject of this appraisal and was substituted with a different comparable. This comparable, according to the deed, included an adjacent property and there may have been a building on that property at the time of the sale. The other comparables used had the same issues as noted above.

The third rental property (Subject C) appraised was used for market rent comparison in the previous two appraisals. The reviewer for the Complainant stated the zoning was misreported and the subject is not a legal use. The Respondent reports this as a four (4) unit dwelling, but the reviewer confirmed that it is a six (6) unit apartment and had been for years. The reviewer stated that all comparables used by the Respondent were two (2) and three (3) unit dwellings and were not comparable. The reviewer stated that first comparable was a single unit dwelling, sale two could not be confirmed that it sold even after four (4) years since the effective date, comparables three and four could not be verified as a sale through public records. All of these sales were from the current borrower/lessor and may not have been market sales, according to the reviewer. The income approach included by the Respondent only included four (4) of the six (6) units that actually existed. The reviewer stated they inspected the subject property as part of the scope of work and included photos of the mail boxes and the six (6) electric meters and interior photos of the units. *Prior Complaint history: 200206934 (Closed with a Letter of Caution); 200504259 (Closed with no further action).*

Recommendation and reasoning: Recommendation, from Mr. Wade, for approval of a formal hearing or approval of a consent order for voluntary surrender of the Respondent's license.

Vote: A motion was made to approve the recommendation by Mr. Bullington. Mr. West seconded that motion. The motion carried unopposed.

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Being no further business, Mr. Bullington recommended adjourning meeting and this motion was seconded by Mr. Wade. The motion carried unanimously and the meeting was adjourned at 12:30 p.m.

Nikole Urban, Administrative Director

Marc Headden, Chairman